

A SUBSTITUTE ORDINANCE BY COMMITTEE ON COUNCIL

AN ORDINANCE TO AUTHORIZE THE MAYOR TO ENTER INTO A CONTRACT WITH DEKALB COUNTY TO CONDUCT THE CITY OF ATLANTA 2009 GENERAL MUNICIPAL ELECTION AND ANY SPECIAL ELECTION(S) HELD IN CONJUNCTION THEREWITH WITHIN THAT PORTION OF ATLANTA WHICH LIES IN DEKALB COUNTY ON NOVEMBER 3, 2009; AND IF NECESSARY, A CITY OF ATLANTA GENERAL RUNOFF ELECTION ON DECEMBER 1, 2009; AND ALL FUTURE ELECTIONS UNTIL DECEMBER 31st 2058 TO AUTHORIZE THAT EXPENSES INCURRED UNDER THE CONTRACT BE PAID FROM THE ALLOCATION PREVIOUSLY AUTHORIZED BY ORDINANCE 09-O-0654; TO APPOINT THE DEKALB COUNTY BOARD OF REGISTRATION AND ELECTIONS, WITH ITS ELECTION SUPERVISOR ACTING AS ITS AGENT, AS MUNICIPAL ELECTION SUPERINTENDENT FOR THE PURPOSE OF CONDUCTING SAID ELECTION, AS ABSENTEE BALLOT CLERK AND AS MUNICIPAL REGISTRAR; AND FOR OTHER PURPOSES.

WHEREAS, in accordance with Section 21-2-45(c) of the State of Georgia Elections Code, the City of Atlanta may authorize DeKalb County by ordinance to conduct elections and to perform any and all functions, as outlined in said code section and as required by such an election; and

WHEREAS, the City of Atlanta wishes to enter into a contract with DeKalb County to conduct a General Municipal Election and any Special Election(s) held in conjunction herewith, and if necessary a General Run-off Election; and

WHEREAS, the governing authority of the City in accordance with Section 21-2- 70.1(b) of the State of Georgia Elections Code shall appoint a municipal election superintendent in a public meeting and the appointment shall be recorded in the minutes of said meeting.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, as follows:

SECTION 1: That the Mayor be and is hereby authorized to execute an appropriate contractual agreement with DeKalb County to conduct a City of Atlanta General Municipal Election and any Special Election (s) to be held in conjunction therewith on November 3, 2009 and if necessary a City of Atlanta General Municipal Run-off Election on December 1, 2009, or such other authorized date; and to conduct all future elections until December 31, 2058.

SECTION 2: That the Atlanta City Council, in accordance with Section 21-2-70.1 (b) of the Georgia Election Code does hereby appoint the DeKalb County Board of Registration and Elections, with its Election Supervisor acting as its agent, as the Municipal Election Superintendent for the 2009 City of Atlanta General Municipal Election and any Special Election(s) to be held in conjunction therewith on November 3, 2009 and for a City of Atlanta General Municipal Run-Off Election to be held if necessary on December 1, 2009, or on such other authorized date and for all future elections until December 31, 2058.

SECTION 3: That the Atlanta City Council, in accordance with Section 21-2-380.1 of the Georgia Election Code does hereby appoint the DeKalb County Board of Registration and Elections, with its Election Supervisor acting as its agent, as Absentee Ballot Clerk for said City of Atlanta Election(s).

SECTION 4: That the Atlanta City Council, in accordance with Section 21-2-212 (c) of the Georgia Election Code does hereby appoint the DeKalb County Board of Registration and Elections, with its Election Supervisor acting as its agent, as Municipal (Chief) Registrar for said City of Atlanta Election(s).

SECTION 5: That the appointments noted in Sections 2, 3, and 4 of this ordinance made at this regular meeting of the Atlanta City Council, shall be recorded in the minutes of said meeting.

SECTION 6: For the term of the contract, the Municipal Clerk, acting as the Municipal Election Superintendent, shall be authorized to execute any and all documents, perform any and all acts and to carry out any and all required duties which are not inconsistent with the State Election Code, and which may be necessary to effectuate the purposes of this ordinance.

SECTION 7: That the City shall pay to DeKalb County all costs incurred in performing those functions which the City has requested DeKalb County to perform in conducting the Election(s) and if necessary the Run-off Election, from Account Number 1001.200317.5710001.1400000.000000.000000.0000.00000000. 00000000.

SECTION 8: That the City Attorney be and is hereby directed to prepare an appropriate contract with Fulton County for execution by the Mayor, in substantially the form attached hereto identified as Attachment 1, and to be approved by the City Attorney as to final form.

SECTION 9: That the contract with DeKalb County shall not become binding on the City and the City shall incur no liability upon same until such contract has been signed by the Mayor and delivered to the contracting party.

SECTION 10: That should any part of this ordinance be declared unconstitutional or unenforceable in a court of law, that it shall be severed from this ordinance and all such parts not declared unconstitutional or unenforceable shall remain in full force and effect.

SECTION 11: That all ordinances and parts of ordinances in conflict herewith be and are hereby repealed.

EXHIBIT A

As per Agreement previously approved, THE CITY OF ATLANTA hereby requests that DeKalb County conduct their Municipal Election on November 3, 2009, and any run-off Election on December 1, 2009. The last day to register to vote in this election is October 5, 2009. The absentee poll will be located at 4380 Memorial Drive, Decatur, Georgia 30032.

This _____ day of _____, _____

(SEAL)

Municipal Clerk/ Election Superintendent

The DeKalb County Board of Registrations and Elections agrees to conduct the CITY OF ATLANTA municipal Election on November 3, 2009, and any run-off Election on December 1, 2009 or such other authorized date if necessary.

This _____ day of _____, _____

(SEAL)

Linda W. Latimore, Elections Supervisor
DeKalb County Board of Registrations and
Elections

09-O-1394

AN ORDINANCE BY COMMITTEE ON COUNCIL

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WHEREAS, in accordance with Section 21-2-45(c) of the State of Georgia Elections Code, the City of Atlanta may authorize Dekalb County by ordinance to conduct elections and to perform any and all functions, as outlined in said code section and as required by such an election; and

WHEREAS, the City of Atlanta wishes to enter into a contract with Dekalb County to conduct a General Municipal Election and any Special Election(s) held in conjunction herewith, and if necessary a General Run-off Election; and

WHEREAS, the governing authority of the City in accordance with Section 21-2- 70.1(b) of the State of Georgia Elections Code shall appoint a municipal election superintendent in a public meeting and the appointment shall be recorded in the minutes of said meeting.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, as follows:

SECTION 1: That the Mayor be and is hereby authorized to execute an appropriate contractual agreement with Dekalb County to conduct a General Municipal Election and Special Election (s) held in conjunction herewith on November 3, 2009 and if necessary a Run-off Election on December 1, 2009, or such other authorized date.

SECTION 2: That the Atlanta City Council, in accordance with Section 21-2-70.1 (b) of the Georgia Election Code does hereby appoint the Dekalb County Board of Registration and Elections, with its Election Supervisor acting as its agent, as the Municipal Election Superintendent for the 2009 City of Atlanta General Municipal Election and any Special Election(s) to be held in conjunction therewith on November 3, 2009 and for a General Run-Off Election to be held if necessary on December 1, 2009, or on such other authorized date.

SECTION 3: That the Atlanta City Council, in accordance with Section 21-2-380.1 of the Georgia Election Code does hereby appoint the Dekalb County Board of Registration and Elections, with its Election Supervisor acting as its agent, as Absentee Ballot Clerk for said City of Atlanta Election(s).

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SECTION 5: That the appointments noted in Sections 2, 3, and 4 of this ordinance made at this regular meeting of the Atlanta City Council, shall be recorded in the minutes of said meeting.

SECTION 6: That the City shall pay to Dekalb County all costs incurred in performing those functions which the City has requested Dekalb County to perform in conducting the Election(s) and if necessary the Run-off Election, from Account Number **1001.200317.5710001.1400000.000000.000000.0000000000.**

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SECTION 8: That the contract with Dekalb County shall not become binding on the City and the City shall incur no liability upon same until such contract has been signed by the Mayor and delivered to the contracting party.

SECTION 9: That should any part of this ordinance be declared unconstitutional or unenforceable in a court of law, that it shall be severed from this ordinance and all such parts not declared unconstitutional or unenforceable shall remain in full force and effect.

SECTION 10: That all ordinances and parts of ordinances in conflict herewith be and are hereby repealed.

STATE OF GEORGIA

DEKALB COUNTY:

THIS AGREEMENT is made by and between the City of ATLANTA, a municipal corporation lying partially within the County of DeKalb, Georgia (hereinafter referred to as "City") and DEKALB COUNTY, a political subdivision of the State of Georgia (hereinafter referred to as "County"), and both parties have been duly authorized to enter into this Agreement.

WITNESSETH:

WHEREAS, City in the performance of its governmental functions will hold election(s); and,

WHEREAS, the parties to this Agreement are both governmental units; and

WHEREAS, both parties hereto are interested in serving the needs of the citizens of the City of Atlanta and DeKalb County by providing for the conduct of all elections required and permitted by law within the portion of City that lies in County; and

WHEREAS, under the provisions of former Section 21-3-10 of the Official Code of Georgia Annotated and Section 21-2-45(c) of the Official Code of Georgia Annotated, City may by ordinance authorize County to conduct such election(s) and City has adopted such an ordinance:

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and in consideration of the mutual promises and undertakings contained herein, the parties hereto do agree and consent to the following:

1.

This Agreement shall govern the conduct of any and all elections (hereinafter referred to as "Election"), including any and all runoffs which may be necessary, at the sole option of the City.

2.

For each Election, City, at its sole option, shall submit to County a request in the form attached hereto as Exhibit A. Requests must be made not later than 60 days before the Election. Requests should be sent to the following address:

**Elections Supervisor
DeKalb County Elections
4380 Memorial Drive
Decatur, Georgia 30032**

3.

Upon receipt of a request from the City, the DeKalb County Board of Registrations and Elections shall perform the duties of the "Superintendent" of the Election with the exception of the "Call" of the Election, publication of the legal notices required, and qualification of candidates, as permitted by O.C.G.A. § 21-2-45. Copies of said notices will be sent to the County. The City shall collect and retain the qualification fee under O.C.G.A. § 21-3-90(a).

4.

Absentee voting shall be conducted at the location(s) designated by County.

5.

The City shall be responsible for all submissions required to the U. S. Justice Department under the Voting Rights Act of 1965.

6.

Pursuant to O.C.G.A. § 21-2-45(c), City shall pay County all costs incurred in performing the functions agreed upon herein. City agrees to pay County the actual cost incurred by County in conducting Election as stated on invoice. City shall remit said funds to County within 30 days of receipt of invoice.

7.

The County shall not be financially responsible for any liability resulting from or furnishing of any services in the form of legal opinions or defenses in connection with any litigation arising by reason of the Election. All legal services and defenses of litigation, including but not limited to attorney's fees, required by any Board or person arising from the Election(s) conducted under this contract shall be furnished by the City Attorney for the City. Should the City Attorney for any reason fail to provide the legal services referred to in this paragraph, the Superintendent shall have authority to engage the DeKalb County Law Department at the expense of the City; provided, however, that all requests for legal assistance shall be communicated in writing before the City will be obligated to pay for legal services under this paragraph. The failure of the City Attorney's office to respond within fifteen days to a request made hereunder shall be deemed to be a refusal to furnish such services. County shall notify City in writing of its determination that the City has failed to respond as contemplated hereinabove before incurring legal fees on its own behalf for which the City shall be responsible.

8.

Should it be necessary to comply with legal requirements that any of the County's personnel shall be sworn in as a temporary officer or employee of the City, such formality shall be observed without limitation.

9.

This agreement shall commence on the date it is executed by or on behalf of the governing authority of DeKalb County, Georgia and will terminate on December 31, 2058, unless otherwise terminated as set for herein. Either party may unilaterally terminate this Agreement, in whole or in part, for any reason whatsoever by notice in writing to the other party delivered at least thirty (30) days prior to the effective date of termination.

10.

This Agreement constitutes the entire agreement between the parties hereto as to all matters contained herein. No representations, oral or written, not incorporated herein shall be binding upon the parties hereto. All subsequent changes in this Agreement must be in writing and signed by all parties. This Agreement is for the benefit of the parties hereto only and is not intended to benefit any third party or to give rise to any duties to or causes of action for any third party.

IN WITNESS WHEREOF, the parties have hereunto set their hands and affixed their seals pursuant to resolutions of their governing bodies duly adopted and entered on the Minutes thereof.

CITY OF ATLANTA (Seal)

Mayor

Date

ATTEST:

Municipal Clerk

Date

APPROVED AS TO FORM:

City Attorney

(Signatures Continue on Following Page)

**MUNICIPAL ELECTIONS AGREEMENT
CITY OF ATLANTA**

DEKALB COUNTY, GEORGIA

BY: _____ **BY DIR. (SEAL)** _____
Burrell Ellis
Chief Executive Officer
DeKalb County, Georgia
Date

ATTEST:

BARBARA SANDERS, CCC
Clerk of the Chief Executive Officer
and Board of Commissioners of
DeKalb County, Georgia
Date

APPROVED AS TO SUBSTANCE:

Elections Supervisor
DeKalb County Board of Registration
and Elections

APPROVED AS TO FORM:

County Attorney Signature

County Attorney Name (Typed or Printed)

EXHIBIT A

As per Agreement previously approved, THE CITY OF ATLANTA hereby requests that DeKalb County conduct their General Municipal Election on November 3, 2009. The last day to register to vote in this election is October 5, 2009. The absentee poll will be located at 4380 Memorial Drive, Decatur, Georgia 30032.

This _____ day of _____, _____

Municipal Clerk

(SEAL)

The DeKalb County Board of Registrations and Elections agrees to conduct the CITY OF ATLANTA General Municipal Election on _____, 20____.

This _____ day of _____, _____

**Linda W. Latimore, Elections Supervisor
DeKalb County Board of Registrations
and Elections**

(SEAL)

RCS# 3223
8/17/09
5:47 PM

Atlanta City Council

REGULAR SESSION

09-O-1394 SUTH.MAYOR TO ENTER CONTRACT W/DEKALB CO
 TO CONDUCT 2009 GENERAL ELECTION
 REFER COC

YEAS: 12
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 2
EXCUSED: 1
ABSENT 1

Y Smith	Y Archibong	Y Moore	Y Mitchell
Y Hall	Y Fauver	E Martin	NV Norwood
Y Young	Y Shook	Y Maddox	Y Willis
Y Winslow	Y Muller	B Sheperd	NV Borders

AN ORDINANCE BY

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